

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
<i>Isodendron pyrifolium</i>	Wahine noho kula	U.S.A. (HI)	E		NA	NA

Dated: November 27, 1992.  
**Bruce Blanchard**,  
 Acting Director, Fish and Wildlife Service.  
 [FR Doc. 92-30518 Filed 12-16-92; 8:45 am]  
 BILLING CODE 4310-55-M

## 50 CFR Part 17

RIN 1018-AB88

### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant "*Pritchardia aylmer-robinsonii*" (Wahane)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for the plant *Pritchardia aylmer-robinsonii* (wahane). The species grows only on the island of Niihau, Hawaiian Islands. The species and its habitat have been affected and are currently threatened by cattle, pigs, and sheep. Due to the small number of existing individuals and their very narrow distribution, this species is subject to reduced reproductive vigor and/or an increased likelihood of extinction from stochastic events. This proposal, if made final, would implement the Federal protection and recovery provisions provided by the Act. If made final, it would also implement State regulations protecting these plants as endangered species. Comments and materials related to this proposal are solicited.

**DATES:** Comments from all interested parties must be received by February 16, 1993. Public hearing requests must be received by February 1, 1993.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:**  
 Derral R. Herbst, at the above address (808/541-2749).

#### SUPPLEMENTARY INFORMATION:

##### Background

In 1947, on one of his botanical collecting trips to Niihau, Harold St. John discovered a new species of the only genus of palms native to the Hawaiian Islands. He named it *Pritchardia aylmer-robinsonii* in honor of Aylmer F. Robinson, a member of the family which owns the island and a person who provided St. John with much information regarding the island's plants (St. John 1959).

Historically, *Pritchardia aylmer-robinsonii* was found at three sites in the eastern and central portions of the island of Niihau. Trees were found on Kaali Cliff and in Mokouia and Haao Valleys at elevations between 70 and 270 meters (m) (230 and 890 feet (ft)) (Hawaii Heritage Program (HHP) 1991a to 1991d). The most recent observations indicate that the only extant natural population consists of two plants still remaining on Kaali Cliff (Read and Hodel 1990). Originally a component of the Coastal Dry Forest, this species now occurs only in a rugged and steep area where it is somewhat protected from grazing animals. The substrate in the area is rocky talus, and *Prosopis pallida* (kiawe), an introduced tree, is one of the palm's few associated plant species. Other native plants which have been found in the area included *Brighamia insignis* ('olulu), *Cyperus trachysanthos* (pu'uka'a), *Lipochaeta lobata* var. *lobata* (nehe), and *Lobelia niihauensis* (no common name) HHP 1991e; St. John 1959; Keith Woolliams, Waimea Arboretum and Botanical Garden, pers. comm., 1980).

*Pritchardia aylmer-robinsonii* of the palm family (Arecaceae) is a fan-leaved tree about 7 to 15 m (23 to 50 ft) tall with a trunk approximately 20 to 30 centimeters (cm) (8 to 12 inches (in)) in diameter. The upper and lower leaf surfaces are green and hairless, and leaf segments are rather thin and drooping. The lower surfaces of the petiole and the leaf ribs are covered with dense, tan wool. The branched, hairless flower clusters are located among the leaves and are no longer than the petioles.

Each flower comprises a cup-shaped, three-lobed calyx; three petals; six stamens; and a three-lobed stigma. The spherical, hard, black fruit is 1.8 to 2 cm (0.7 to 0.8 in) in diameter. This species is distinguished from others of the genus by the thin leaf texture and drooping leaf segments; the tan woolly hairs on the underside of the petiole and the leaf blade base; the stout hairless flower clusters which do not extend beyond the fan-shaped leaves; and the smaller spherical fruit (Read and Hodel 1990).

Hawaiian land practices prior to European contact probably destroyed most of the forest on Niihau. Grazing animals were introduced to the island beginning in the 1700s and have further decreased available habitat for *Pritchardia aylmer-robinsonii* as well as directly damaging trees, seedlings, and/or seeds. The entire island is now classified an Agricultural District, and it is managed as a cattle and sheep ranch. In addition to the two naturally occurring plants, there are approximately 200 immature cultivated individuals in existence. Reduced reproductive vigor and/or stochastic extinction due to the small number of reproductive plants are major threats. Rodents are known to eat the seeds of some palms of this genus, and they are a potential threat to this species as well, since they are found on Niihau (Beccari and Rock 1921; Cuddihy and Stone 1990; Department of Geography 1983; St. John 1959; Tomich 1986; Wagner et al. 1985; John Fay, U.S. Fish and Wildlife Service, pers. comm., 1992).

Federal action on this plant began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. In that document, *Pritchardia aylmer-robinsonii* was considered to be endangered. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named

therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Pritchardia aylmer-robinsonii*. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, *Federal Register* publication. General comments received in response to the 1976 proposal are summarized in an April 26, 1978, *Federal Register* publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the *Federal Register* (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In these notices, *Pritchardia aylmer-robinsonii* was treated as a Category 1 candidate for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of *Pritchardia aylmer-robinsonii* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991. Publication of the present proposed rule constitutes the final 1-year finding for this species.

#### Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the Act set forth the

procedures for adding species to the Federal Lists. A species may be determined to be an endangered species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Pritchardia aylmer-robinsonii* St. John (wahane) are as follows:

#### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The habitat of *Pritchardia aylmer-robinsonii* has undergone extreme alteration because of past and present land management practices, including agricultural use and deliberate introductions of alien animals. The Hawaiians made extensive agricultural use of Niihau before European contact. Modification of habitat by introduced animals, currently cattle (*Bos taurus*), pigs (*Sus scrofa*), sheep (*Ovis aries*) and formerly also goats (*Capra hircus*), is now one of the major threats facing *Pritchardia aylmer-robinsonii*.

Cattle, the wild progenitor of which was native to Europe, northern Africa, and southwestern Asia, was introduced to the Hawaiian Islands in 1793. Feral cattle formerly occurred on Niihau and caused much damage on the island. Originally native to the Middle East and India, goats were introduced to the Hawaiian Islands in 1792. All feral goats were removed from Niihau about 1910, but by that time they had caused considerable damage to the dry and mesic forests there. Sheep, the wild progenitor of which was native to western Eurasia, was also introduced to Niihau, is still raised there, and has done much damage to the native vegetation and substrate. Pig, originally native to Europe, northern Africa, Asia Minor, and Asia, was introduced to the Hawaiian Islands by the Polynesian immigrants and later from European ships. Pigs are currently present on Niihau, and, besides causing damage to substrate and plants, they are fond of the seeds of *Pritchardia aylmer-robinsonii* (Cuddihy and Stone 1990; Stone 1985; Tomich 1986; Wagner et al. 1985; J. Fay, pers. comm., 1992).

#### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Because the natural population is on a privately owned island with limited public access, activities such as unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interested in seeing rare plants are unlikely to occur.

#### C. Disease or predation

Niihau is used as a cattle and sheep ranch with animals ranging in many areas of the island. Since *Pritchardia aylmer-robinsonii* is not known to be unpalatable to these ungulates, predation is a probable threat. In fact, St. John noted damage to one tree, which he believed had been caused by an animal (1959). The current occurrence of plants only in a rocky area inaccessible to ungulates seems to indicate the effect that browsing mammals have had in restricting the distribution of the species.

Roof or black rats (*Rattus rattus*), which occur on Niihau, have been reported to damage the fruit of other species of *Pritchardia* and thus pose a potential threat to *Pritchardia aylmer-robinsonii* (Beccari and Rock 1921). In addition, pigs eat the seeds of this plant.

#### D. The Inadequacy of Existing Regulatory Mechanisms

*Pritchardia aylmer-robinsonii* is not presently listed as an endangered species by the State of Hawaii. There are no State laws or existing regulatory mechanisms at the present time to protect this species. The known natural habitat of this species is located exclusively on privately owned land. Hawaii's Endangered Species Act states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the [Federal] Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter \* \* \*" (HRS, section 195D-4(a)). Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking of endangered plants in the State and encourages conservation by State agencies (HRS, section 195D-4).

State laws relating to the conservation of biological resources allow for the acquisition of land as well as the development and implementation of programs concerning the conservation of biological resources (HRS, section 195D-5(a)). The State also may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, section 195D-5(c)). If listing were to occur, funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). The Hawaii Department of Land and Natural Resources is mandated to initiate changes in conservation district boundaries to include "the habitat of rare native

species of flora and fauna within the conservation district" (HRS, section 195D-5.1). Currently, the entire island of Niihau is within the Agricultural District. Listing of this species would reinforce and supplement the protection available under the State Act and other laws. The Federal Act would offer additional protection to this species because, if it were to be listed as endangered, it would be a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

#### *E. Other Natural or Manmade Factors Affecting Its Continued Existence*

The small number of individuals of *Pritchardia aylmer-robinsonii* increases the potential for extinction from stochastic events. A single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known natural population of the species. In addition, the limited gene pool may depress reproductive vigor.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Pritchardia aylmer-robinsonii* as endangered. This species is threatened by habitat degradation and/or predation by cattle, pigs, and sheep and lack of legal protection. Small population size and limited distribution make this species particularly vulnerable to reduced reproductive vigor and/or extinction from stochastic events. Because this species is in danger of extinction throughout all or a significant portion of its range, it fits the definition of endangered as defined in the Act. Critical habitat is not being proposed for *Pritchardia aylmer-robinsonii* for reasons discussed in the "Critical Habitat" section of this proposal.

#### **Critical Habitat**

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered. The Service finds that designation of critical habitat is not presently prudent for *Pritchardia aylmer-robinsonii*. Such a determination would result in no known benefit to the species. The publication of a precise map and description of critical habitat

in the Federal Register and local newspapers as required in a proposal for critical habitat would increase the degree of threat to this species from take or vandalism and, therefore, could contribute to its decline and increase enforcement problems. The listing of this species as endangered publicizes the rarity of the plants and, thus, can make the species attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the landowner have been notified of the location and importance of protecting the habitat of this species, which will be addressed through the recovery process. There are no known Federal activities within the currently known habitat of this species. Therefore, the Service finds that designation of critical habitat for this species is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of this species.

#### **Available Conservation Measures**

Conservation measures provided to species listed as endangered under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any taxon that is proposed or listed as endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or

to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There are no known Federal activities that occur within the habitat of *Pritchardia aylmer-robinsonii*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plants set forth a series of general prohibitions and exceptions that apply to all endangered plant species. With respect to *Pritchardia aylmer-robinsonii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued for *Pritchardia aylmer-robinsonii*. The species is not common in the wild and is only rarely cultivated.

Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203-3507 (703/358-2104; FAX 703/358-2281).

#### **Public Comments Solicited**

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Pritchardia aylmer-robinsonii*;

(2) The location of any additional populations of *Pritchardia aylmer-robinsonii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of *Pritchardia aylmer-robinsonii*; and

(4) Current or planned activities in the subject area and their possible impacts on *Pritchardia aylmer-robinsonii*.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor. (See ADDRESSES section.)

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### References Cited

- Beccari, O., and J.F. Rock. 1921. A monographic study of the genus *Pritchardia*. Mem. Bernice P. Bishop Mus. 8:1-77.
- Cuddihy, L.W., and C.P. Stone. 1990. Alteration of native Hawaiian vegetation: effects of humans, their activities and introductions. Cooperative National Park Resources Studies Unit, Honolulu, 138 pp.
- Department of Geography, University of Hawaii. 1983. Atlas of Hawaii, second edition. University of Hawaii Press, Honolulu, 238 pp.
- Hawaii Heritage Program. 1991a. Element Occurrence Record for *Pritchardia aylmer-robinsonii*, PMARE09030.001, dated May 12, 1991, Honolulu. Unpubl., 2 pp.
- Hawaii Heritage Program. 1991b. Element Occurrence Record for *Pritchardia aylmer-robinsonii*, PMARE09030.002, dated May 12, 1991, Honolulu. Unpubl., 2 pp.
- Hawaii Heritage Program. 1991c. Element Occurrence Record for *Pritchardia aylmer-robinsonii*, PMARE09030.003, dated May 12, 1991, Honolulu. Unpubl., 2 pp.
- Hawaii Heritage Program. 1991d. Element Occurrence Record for *Pritchardia aylmer-robinsonii*, PMARE09030.004, dated May 12, 1991, Honolulu. Unpubl., 2 pp.
- Hawaii Heritage Program. 1991e. Key to map references numbers; Niihau Quad., dated June 14, 1991, Honolulu. Unpubl., 5 pp.
- Read, R.W., and D.R. Hodel. 1990. Arecaceae: in Wagner, W.L., D.R. Herbst, and S.H. Sohmer, Manual of the flowering plants of Hawaii. University of Hawaii Press and Bishop Museum Press, Honolulu. Bishop Mus. Spec. Publ. 83:1360-1375.
- St. John, H. 1959. Botanical novelties on the island of Niihau, Hawaiian Islands. Hawaiian plant studies 25. Pacific Science 13:156-190.
- Stone, C.P. 1985. Alien animals in Hawaii's native ecosystems: toward controlling the adverse effects of introduced vertebrates: in Stone, C.P., and J.M. Scott (eds.), Hawaii's terrestrial ecosystems: preservation and management. Cooperative National Park Resources Studies Unit, Honolulu, pp. 251-287.

Tomich, P.Q. 1986. Mammals in Hawaii; a synopsis and notational bibliography. Bishop Museum Press, Honolulu, 375 pp.

Wagner, W.L., D.R. Herbst, and R.S.N. Yee. 1985. Status of the native flowering plants of the Hawaiian Islands: in Stone, C.P., and J.M. Scott (eds.), Hawaii's terrestrial ecosystems: preservation and management. Cooperative National Park Resources Studies Unit, Honolulu, pp. 23-74.

#### Author

The author of this proposed rule is Zella E. Ellshoff, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### Proposed Regulation Promulgation

#### PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family indicated, to the List of Endangered and Threatened Plants:

#### § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Arecaceae—Palm family:						
<i>Pritchardia aylmer-robinsonii</i> .....	Wahane .....	U.S.A. (HI)	E .....		NA	NA

Dated: November 27, 1992.

**Bruce Blanchard,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 92-30517 Filed 12-16-92; 8:45 am]

BILLING CODE 4310-55-M